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EXAMINER KHONG, ALEXANDER				
ART UNIT 2155		PAPER NUMBER		
NOTIFICATION DATE 08/02/2011		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

09/721,503

Applicant(s)

HERMUSH ET AL.

Examiner

ALEXANDER KHONG

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-93 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-93 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 November 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF-089)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application.
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. This is a Non-Final Office Action Correspondence in response to U.S. Application No. 09/721503 filed on 22 November 2000.
2. Claims 1-93 are pending. Claims 1, 40, 79, 86 and 93 are independent claims.

Priority

3. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged, which is the Provisional Application 60/167165 filed on 23 November 1999.

Drawings

4. The examiner objects to the drawings of Figure 1 and Figure 3-6 filed on 22 November 2000.

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because some of the drawing details are unreadable. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Objections

5. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered second claim 39 been renumbered to claim 93 for the purpose of this examination.

6. Claim 87 is objected to because of the following informalities:

Claim 87 recites the limitation "The method of claim 86". Claim 86 is directed to a machine-readable medium and not a method. It appears that claim 87 is intended to depend on claim 86 in which case it should recite "The machine-readable medium of claim 86". For the purpose of this examination, it is interpreted that this claim depends on claim 86.

Appropriate correction is required.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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7. Claims 40-78 and 86-93 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

4. Claims 40, 86, and 93 recite "a machine-readable medium". A machine-readable medium can be broadly interpreted in view of the applicant's specification on page 7 to include data signals. As such, claims 40, 86, and 93 are drawn to a form of energy. Energy is not one of the four categories of invention. Energy is not a series of steps or acts and thus is not a process. Energy is not a physical article or object and as such is not a machine or manufacture. Energy is not a combination of substances and therefore not a composition of matter. For this reason, claims 40, 86, and 93 are non-statutory under 35 U.S.C. 101.

The rejection of claims 40, 86, and 93 under 35 U.S.C. 101 for including both transitory and non-transitory embodiments may be overcome by adding the limitation "non-transitory" to the claims.

8. As to claims 41-78, the claims depend directly or indirectly upon claim 40 and inherit the deficiency of being non-statutory and do not rectify the deficiency. Therefore, they are similarly rejected under 35 U.S.C. 101.

9. As to claims 87-92, the claims depend directly or indirectly upon claim 86 and inherit the deficiency of being non-statutory and do not rectify the deficiency. Therefore, they are similarly rejected under 35 U.S.C. 101.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-93 are rejected under 35 U.S.C. 102(b) as being anticipated by Ferguson et al. (U.S. Patent Number 5,819,092) hereinafter "Ferguson".

12. With respect to claim 1, Ferguson teaches **a method of providing hypervideo application user information, comprising:**

tracking and recording media viewed by a user, where media comprises hypervideo applications (Col. 10, lines 29-39, and Col. 12, lines 15-23; disclosing the method (i.e. using Metering Tool) to track and record media viewed by users from using hypervideo (hypermedia) applications); **and**

creating a user-configurable report, the report reflecting data regarding user access of the media (Col. 37, lines 44-50; disclosing a user-configurable report (metering information) reflecting data regarding user access of the media).

13. As to claim 2, Ferguson teaches **wherein the user-configurable report comprises a report including data after a user-defined start date** (Col. 37, line 65-Col. 38, line 8).

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14. As to claim 3, Ferguson teaches **wherein the user-configurable report comprises a report including data before a user-defined end date** (Col. 37, line 65-Col. 38, line 8).
15. As to claim 4, Ferguson teaches **the report data comprising the number of times each media has been viewed** (Col. 37, line 65-Col. 38, line 8).
16. As to claim 5, Ferguson teaches **wherein media further comprises at least one of video, image, HTML or audio** (Col. 10, lines 29-31).
17. As to claim 6, Ferguson teaches **wherein the user configures which of the media types are to be included in the report** (Col. 37, lines 62-64).
18. As to claim 7, Ferguson teaches **wherein each type of media is identified in the report via representation with a unique icon** (Col. 38, lines 5-8).
19. As to claim 8, Ferguson teaches **wherein the number of times each media has been viewed does not include returning to a media in a path in the same session** (Col. 37, line 65-Col. 38, line 8).
20. As to claim 9, Ferguson teaches **wherein the number of media for which data is displayed in the report is selected by the user** (Col. 37, line 65-Col. 38, line 8).
21. As to claim 10, Ferguson teaches **wherein the report comprises the number of user sessions during which the media was viewed** (Col. 37, line 65-Col. 38, line 8).
22. As to claim 11, Ferguson teaches **wherein the report comprises the number of unique users to view a media** (Col. 37, line 65-Col. 38, line 8).

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23. As to claim 12, Ferguson teaches **wherein the report comprises the average time users spent viewing each media** (Col. 37, line 65-Col. 38, line 8).
24. As to claim 13, Ferguson teaches **wherein the report sorts media by the number of times each media has been viewed** (Col. 37, line 65-Col. 38, line 8).
25. As to claim 14, Ferguson teaches **wherein the number of times each media has been viewed comprises both the total number of times a looping video has been viewed including views that result from looping, and the number of times the looping video has been viewed not as a result of looping** (Col. 37, lines 1-5).
26. As to claim 15, Ferguson teaches **wherein the report comprises an indication of whether the views of a particular media were user-initiated or automatic** (Col. 36, lines 18-23).
27. As to claim 16, Ferguson teaches **wherein the report comprises an indication of whether video media is looping media** (Col. 37, lines 1-5).
28. As to claim 17, Ferguson teaches **the report further reflecting the number of times each path has been taken through each hypervideo application** (Col. 36, lines 18-23).
29. As to claim 18, Ferguson teaches **wherein indicating the number of times each path has been taken through each hypervideo application comprises displaying data for a user-selected number of paths** (Col. 36, lines 24-29).

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30. As to claim 19, Ferguson teaches **wherein indicating the number of times each path has been taken through each hypervideo application comprises indicating data for only those paths exceeding a user-defined minimum path length** (Col. 36, lines 18-23).

31. As to claim 20, Ferguson teaches **wherein indicating the number of times each path has been taken through each hypervideo application comprises grouping paths together based on a user-defined number of same first pages in each path** (Col. 36, lines 18-29).

32. As to claim 21, Ferguson teaches **wherein creating a user-configurable report further comprises indicating for each video-enhanced page in a hypervideo application information regarding the previous video-enhanced pages users viewed before the current video-enhanced page and from which users proceeded to the current video-enhanced page, and indicating information regarding the next video-enhanced pages to which users proceeded from the current video-enhanced page** (Col. 37, lines 1-5).

33. As to claim 22, Ferguson teaches **wherein the information regarding the previous video-enhanced pages comprises data regarding the identity of the previous video-enhanced pages viewed before and linked to the current video-enhanced page** (Col. 37, lines 22-27).

34. As to claim 23, Ferguson teaches **wherein the information regarding the previous video-enhanced pages comprises information regarding how viewing the current video-enhanced page was initiated** (Col. 36, lines 18-23).

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35. As to claim 24, Ferguson teaches **wherein the information regarding the previous video-enhanced pages comprises the average time users spent viewing the previous video-enhanced pages before proceeding to the current video-enhanced page** (Col. 37, line 65-Col. 38, line 8).

36. As to claim 25, Ferguson teaches **wherein the information regarding the previous video-enhanced pages comprises the number of user sessions for each previous video-enhanced page from which users have proceeded to the current video-enhanced page** (Col. 37, line 65-Col. 38, line 8).

37. As to claim 26, Ferguson teaches **wherein the information regarding the previous video-enhanced pages comprises the percentage of total times when viewing the previous video-enhanced pages that users proceeded to the current video-enhanced page** (Col. 37, line 65-Col. 38, line 8).

38. As to claim 27, Ferguson teaches **wherein the information regarding the next video-enhanced pages comprises information about each hotspot on the current video-enhanced page and the next video-enhanced pages to which the hotspots are linked** (Col. 17, lines 37-39).

39. As to claim 28, Ferguson teaches **wherein the information regarding the next video-enhanced pages comprises the media to which each hotspot is linked** (Col. 17, lines 50-51).

40. As to claim 29, Ferguson teaches **wherein the information regarding the next video-enhanced pages further comprises the average time a user**

spends viewing the current video-enhanced page before progressing to each of the next video-enhanced pages (Col. 37, line 65-Col. 38, line 8).

41. As to claim 30, Ferguson teaches **wherein the information regarding the next video-enhanced pages further comprises the number of user sessions in which a person proceeds from the current video-enhanced page to each of the next video-enhanced pages** (Col. 37, line 65-Col. 38, line 8).

42. As to claim 31, Ferguson teaches **wherein the information regarding the next video- enhanced pages further comprises the percentage of total views of the current video- enhanced page that result in a user proceeding to each of the next video-enhanced pages** (Col. 37, line 65-Col. 38, line 8).

43. As to claim 32, Ferguson teaches **the user-configurable report further comprising a hotspot report** (Col. 37, line 65-Col. 38, line 8).

44. As to claim 33, Ferguson teaches **the hotspot report comprising the number of sessions in which a user has selected each hotspot** (Col. 37, line 65-Col. 38, line 8).

45. As to claim 34, Ferguson teaches **the hotspot report comprising the number of times each hotspot has been viewed by a user** (Col. 37, line 65-Col. 38, line 8).

46. As to claim 35, Ferguson teaches **the hotspot report comprising the average view time that users spent viewing the content linked to each hotspot** (Col. 37, line 65-Col. 38, line 8).

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47. As to claim 36, Ferguson teaches **the hotspot report comprising the name and type of each hotspot** (Col. 38, lines 5-8).

48. As to claim 37, Ferguson teaches **the hotspot report comprising the number of selections of each hotspot via a mouse** (Col. 37, line 65-Col. 38, line 8).

49. As to claim 38, Ferguson teaches **the hotspot report comprising the percentage of viewers that clicked each hotspot** (Col. 37, line 65-Col. 38, line 8).

50. As to claim 39, Ferguson teaches **the hotspot report comprising identification of the overlay used to represent the hotspot** (Col. 37, line 61-Col. 38, line 8).

51. With respect to claim 40, Ferguson discloses **a machine-readable medium with instructions stored thereon** (Figure 1; disclosing multiple servers with machine-readable medium), **the instructions when executed operable to cause a computer to provide hypervideo application user information by:**

tracking and recording media viewed by a user, where media comprises hypervideo applications (Col. 10, lines 29-39, and Col. 12, lines 15-23; disclosing the method (i.e. using Metering tool) to track and record media viewed by users from using hypervideo (hypermedia) applications); **and**

creating a user-configurable report, the report reflecting data regarding user access of the media (Col. 37, lines 44-50; disclosing a user-configurable report (metering information) reflecting data regarding user access of the media).

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52. As to claims 41-78, the applicant discloses the limitations substantially similar to those in claims 2-39, respectively. Claims 41-78 are similarly rejected.

53. As to claim 79, Ferguson teaches **a method of providing hypervideo application user information, comprising:**

tracking and recording media viewed by a user, where media comprises hypervideo applications (Col. 10, lines 29-39, and Col. 12, lines 15-23; disclosing the method (i.e. using Metering tool) to track and record media viewed by users from using hypervideo (hypermedia) applications); **and**

creating a user-configurable report (Col. 37, lines 44-50), **the report reflecting data regarding user viewing of advertising media via hotspots** (Col. 4, lines 36-40; disclosing the support for advertising media via hotspots (Hyper document/Commerce subservice)).

56. As to claim 80, Ferguson teaches **wherein the report comprises the advertising media overlay image name** (Col. 13, lines 47-53).

57. As to claim 81, Ferguson teaches **wherein the report comprises a click-through URL (Uniform Resource Locator) linked to each advertising media hotspot** (Col. 13, lines 53-56; disclosing the click-through URL (hyperlinks) used to link to each advertising media hotspot).

54. As to claim 82, Ferguson teaches **wherein the report comprises the number of times each advertising media was retrieved within a user session** (Col. 37, line 65-Col. 38, line 8).

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55. As to claim 83, Ferguson teaches **wherein the report comprises the number of times each advertising media was retrieved by a unique user** (Col. 37, line 65-Col. 38, line 8).

56. As to claim 84, Ferguson teaches **wherein the report comprises the percentage of times that a user who viewed the advertising hotspot has selected the hotspot** (Col. 37, line 65-Col. 38, line 8).

57. As to claim 85, Ferguson teaches **wherein the report comprises the average amount of time that users view each advertising media hotspot** (Col. 37, line 65-Col. 38, line 8).

58. With respect to claim 86, Ferguson teaches **a machine-readable medium** (Figure 1; disclosing multiple servers with machine-readable medium) **with instructions thereon, the instructions when executed operable to cause a computer to provide hypervideo application user information by:**

tracking and recording media viewed by a user, where media comprises hypervideo applications (Col. 10, lines 29-39, and Col. 12, lines 15-23; disclosing the method (Metering tool) to track and record media viewed by users from using hypervideo (hypermedia) applications); **and**

creating a user-configurable report (Col. 37, lines 44-50), **the report reflecting data regarding user viewing of advertising media via hotspots** (Col. 4, lines 36-40).

58. As to claims 87-92, the applicant discloses the limitations substantially similar to those in claims 80-85, respectively. Claims 87-92 are similarly rejected.

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59. With respect to claim 93 (shown as the second claim 39 by the applicant), Ferguson discloses **a machine-readable medium with instructions stored thereon** (Figure 1; disclosing multiple servers with machine-readable medium), **the instructions when executed operable to cause a computer to provide hypervideo application user information by:**

tracking and recording media viewed by a user, where media comprises

hypervideo applications (Col. 10, lines 29-39, and Col. 12, lines 15-23; disclosing the method (i.e. using Metering tool) to track and record media viewed by users from using hypervideo (hypermedia) applications); **and**

creating a user-configurable report, the report reflecting statistical data regarding user access of the media (Col. 25, lines 59-61).

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALEXANDER KHONG whose telephone number is (571)270-7127. The examiner can normally be reached on Monday-Friday, 8:30am - 5:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rehana Perveen can be reached on (571) 272-3676. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alexander Khong/
Examiner, Art Unit 2155

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